IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.07.2023

CORAM

THE HON'BLE **MR.JUSTICE C.SARAVANAN**

W.P.No.20139 of 2023
and
W.M.P.Nos.19485 & 19486 of 2023

M/s.Astadik Overseas
Partnership Firm,
Being represented by its Partner,
Mr.Prashanth Raj.N
having office at No.1376, Kathriguppe Main Road,
Near Hanumanth Nagar Police Station,
Ashok Nagar, BSK First Stage,
Banglore South, Bengaluru, Banashankari,
Karnataka – 560 050. ... Petitioner

Vs.

The Commissioner of Customs,
Chennai – II (IMPORTS),
(F.No.GEN/ADJ/COMM/266/2023-GR-1,
SCN No.46 of 2023
Office at Custom House,
No.60, Rajaji Salai,
Chennai – 600 001. ... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, for issuance of a Writ of Certiorari, to call for the records pertaining to Show Cause Notice bearing F.No.GEN/ADJ/COMM/266/2023-GR-1 SCN No.46 of

2023 dated 09.05.2023 from the respondent on the file of the respondent and quash the same as not maintainable.

For Petitioner : Mr.S.P.Siva Pradosh

For Respondent : Mr.J.Vasu

ORDER

Mr.J.Vasu, learned Senior Standing Counsel takes notice on behalf of the respondent.

2.This is the second round of writ petition before this Court. The petitioner had earlier approached this Court in W.P.No.1447 of 2023 dated 23.01.2023, wherein, the petitioner had challenged the Audit Consultative Letter dated 26.12.2022 issued by the respondent therein namely the Assistant Commissioner. This Court had dismissed the said writ petition vide its order dated 23.01.2023. However, while dismissing the said writ petition, the Court directed the respondent to consider all the contentions raised by the petitioner in the writ petition on merits and in accordance with law and only thereafter decide as to whether a notice will have to be issued to the petitioner under Section 28(1) of the Customs Act, 1962.

3.Although it is a case of the petitioner that the horse feed imported by the petitioner is eligible for duty concession under Notification No.2/2017-Integrated Tax (Rate) dated 28.06.2017, the petitioner has to meet out the allegations in the show cause notice by filing a proper reply to the show cause notice.

4.Unless, the impugned notice issued by the respondent herein was without jurisdiction, question of interfering with the assessment proceedings under Section 28 of the Customs Act, 1962 cannot be countenanced. In my view, there is no merits in the present writ petition.

4.Therefore, this writ petition is liable to be dismissed. Accordingly, it stands dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

10.07.2023

Index : Yes/No
Internet : Yes/No
Speaking/Non-speaking Order
Neutral Citation:Yes/No
jas

To

The Commissioner of Customs,
Chennai – II (IMPORTS),
(F.No.GEN/ADJ/COMM/266/2023-GR-1,
SCN No.46 of 2023
Office at Custom House,
No.60, Rajaji Salai,
Chennai – 600 001.

C.SARAVANAN, J.

jas

W.P.No.20139 of 2023
and
W.M.P.Nos.19485 & 19486 of 2023

10.07.2023